

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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EDDIE SOWELL SMITH,

Petitioner,

v.

CHILDERS, *et al.*,

Respondents.

Case No. 3:23-cv-00394-MMD-CSD

ORDER

*Pro se* Petitioner Eddie Sowell Smith filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 on August 11, 2023. (ECF No. 1-1 (“Petition”).) Smith had not paid the standard \$5.00 filing fee or filed an application for leave to proceed *in forma pauperis* (“IFP”). On August 14, 2023, this Court gave Smith until September 29, 2023, to either pay the \$5 filing fee or submit a complete IFP application with all required documentation. (ECF No. 3.) In response, Smith filed two motions for information regarding his filing fee. (ECF Nos. 4, 5 (“Motions”).) In his Motions, Smith explained that he submitted a \$5.00 filing fee in a different habeas case—Case No. 2:23-cv-00527-GMN-VCF—but that case was dismissed without prejudice for failure to pay the filing fee. (*Id.*) There is no receipt of payment in the docket for Case No. 2:23-cv-00527-GMN-VCF. However, after discussion with the Court’s finance department, it appears that Smith paid his filing fee in Case No. 2:23-cv-00527-GMN-VCF, but the receipt failed to be docketed. The receipt has now been docketed in Case No. 2:23-cv-00527-GMN-VCF. Further, the dismissal order in Case No. 2:23-cv-00527-GMN-VCF has been vacated, and that case has been reopened. Due to the reopening of Case No. 2:23-cv-00527-GMN-VCF, which


1 concerns the same judgment of conviction as this case, this case is dismissed without  
2 prejudice.

3 It is therefore ordered that the Petition (ECF No. 1-1) is dismissed without  
4 prejudice. A certificate of appealability is denied, as jurists of reason would not find  
5 dismissal of the Petition to be debatable or wrong.

6 It is further ordered that the Motions (ECF Nos. 4, 5) are denied as moot.

7 It is further ordered that the Clerk of Court: (1) file the Petition (ECF No. 1-1); (2)  
8 add Nevada Attorney General Aaron D. Ford as counsel for Respondents; (3) informally  
9 serve Respondents by sending a notice of electronic filing to the Nevada Attorney  
10 General's Office of the Petition (ECF No. 1-1) and this order<sup>1</sup>; (4) enter final judgment  
11 dismissing this action without prejudice; and (5) close this case.

12 DATED THIS 12<sup>th</sup> Day of September 2023.

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16 MIRANDA M. DU  
17 CHIEF UNITED STATES DISTRICT JUDGE  
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27 <sup>1</sup>No response is required from Respondents other than to respond to any orders  
28 of a reviewing court.